
Appeal Decision

Site visit made on 17 June 2016

by Richard McCoy BSc MSc DipTP MRTPI IHBC

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 11 October 2016`

Appeal Ref: APP/H0928/W/16/3143476

Land near Moss Thorn Farm, Pallet Hill, Penrith

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by TGC Renewables Ltd against the decision of Eden District Council.
 - The application Ref 15/0459, dated 26 May 2015, was refused by notice dated 4 December 2015.
 - The development proposed is a solar farm and associated development.
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Procedural matter

1. The Council's Decision Notice describes the development as a "solar farm and associated development including five inverter cabins, a substation, switchgear housing, two communication buildings, 28 CCTV cameras and perimeter fencing". As this more accurately describes the proposal, I have dealt with the appeal on this basis.

Decision

2. The appeal is allowed and planning permission is granted for a solar farm and associated development including 5 no. five inverter cabins, a substation, switchgear housing, 2 no. communication buildings, 28 no. CCTV cameras and perimeter fencing at land near Moss Thorn Farm, Pallet Hill, Penrith in accordance with the terms of the application, Ref 15/0459, dated 26 May 2015, subject to the conditions set out in the Annex to this decision.

Main Issues

3. The main issues are the effect of the proposal on the surrounding area in terms of landscape character and visual impact, and whether any harm, in the light of the development plan, would be outweighed by the national objective of promoting renewable energy generation.

Reasons

Background and Policy

4. The appeal site comprises 2 no. agricultural fields, located in open countryside around 1.4km to the west of Penrith and the M6 Motorway. The fields are set to grazing and are classed as Grade 3b agricultural land. Access to the site would be taken from the Greystoke Road (B5288) using the existing access point which currently serves the farm. The proposal would occupy around 8.7
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hectares, consisting of solar panels mounted in arrays, set in rows running across the site east to west, tilted at a 25 degree angle with a height of around 3m. The panels would be of a dark blue colour with a matt finish. The proposal would also include 5 no. inverter cabins, a substation, switchgear housing, 2 no. communication buildings and 28 no. CCTV cameras spaced around a perimeter fence that would be around 2m in height. The electricity generated would connect directly into the national grid and the proposed lifespan of the development would be 25 years.

5. The National Planning Policy Framework (NPPF) makes clear that the purpose of the planning system is to contribute to the achievement of sustainable development and paragraph 93 makes clear that the provision of renewable energy infrastructure is central to the economic, social and environmental dimensions of sustainable development. This is reflected in the planning practice guidance (PPG) which states that increasing the amount of energy from renewable and low carbon technologies will help to make sure the UK has a secure energy supply, reduce greenhouse gas emissions to slow down climate change and stimulate investment in new jobs and businesses. It goes on to state that planning has an important role in the delivery of new renewable and low carbon energy infrastructure in locations where the local environmental impact is acceptable.
6. The PPG also makes clear that there are no hard and fast rules about how suitable areas for renewable energy should be identified, but in considering locations, local planning authorities will need to ensure they take into account the requirements of the technology, and critically, the potential impacts on the local environment, including from cumulative impacts. The PPG points out that the need for renewable energy does not automatically override environmental protections or the planning concerns of local communities, making clear that "renewable energy developments should be acceptable for their proposed locations". The PPG further advises that "solar farms can have a negative impact on the rural environment, particularly in undulating landscapes" although the "visual impact of a well-planned and well-screened solar farm can be properly addressed within the landscape if planned sensitively". It is clear from the PPG that the loss of the best and most versatile agricultural land would need to be justified by compelling evidence.
7. Policy CS20 of the adopted Eden Core Strategy Development Plan Document (CS) is supportive of proposals for renewable energy if there is no significant adverse effect on landscape character, biodiversity, natural heritage or local amenity and if all practicable measures are taken to reduce such impacts. CS policies CS1 and CS16 seek to promote sustainable development and protect the natural environment. Saved policy NE1 of the adopted Eden Local Plan (LP) and CS Policy CS18 require new development in the countryside to protect, and where possible, enhance the distinctive rural landscape. These policies reflect those of the NPPF which in paragraph 98 states support for renewable energy development if its impacts are (or can be made) acceptable.

Landscape character and visual impact

8. I observed that the fields forming the appeal site are elevated, slope down from west to east and are bounded by trees and hedges. They are surrounded by agricultural land with the associated farmhouse and buildings (Moss Thorn Farm) located around 0.57km to the west. The villages of Catterlen and

Newton Rigg are located around 1.1km north, and 400m east, of the proposal respectively with the Lake District National Park boundary located around 2.5km to the south. The nearest dwellings would be Wreay Bungalow and the adjacent dwellings (around 350m to the south west).

9. The proposal would be situated within National Character Area 9 *Eden Valley* as defined by Natural England. This is characterised as an intimate blend of undulating mixed farmland with significant areas of woodland, farm copses, mature hedgerow trees, stone walls and historic villages. At the local level the landscape is classified as "Type 6 Intermediate Farmland" in the *Cumbria Landscape Character Guidance and Toolkit*. This is described as a large-scale open landscape of intermediate farmland that occurs between lowland and rolling upland areas. The land use is predominately grazing land bounded by hedgerows and stone walls.
10. The adjoining landscape character types are "Type 12b Rolling Fringe" and "Type 12c Limestone Foothills". Type 12b is described as an open landscape with an intimate feel with open, uninterrupted views across moorland to a backdrop of hills. Type 12c is described as rolling undulating topography with occasional plateaus and significant areas of commercial forestry plantations with an overarching sense of remoteness which is sensitive to large scale development.
11. The appellant submitted a landscape and visual impact assessment (LVIA) including a Zone of Theoretical Visibility (ZTV) that extends to around 5km, and 9 representative views of the proposal. From my assessment, I consider that the overall sensitivity of the landscape in the vicinity of the appeal site is reduced by the proximity of the M6, and the industrial estates on the western side of Penrith. While the proposal would introduce a development with an industrial appearance into this rural setting, I observed that inter-visibility with the surrounding landscape would be limited as a result of the undulating topography and existing vegetation.
12. Existing areas of woodland at Newton Moss and The Wreay would serve to limit the effect on landscape character and visual impact over mid to longer range views. In addition, in longer range views such as from the dwellings at Newton Reigny and Penrith (to the north and east of the proposal respectively - LVIA viewpoints 4 and 9) the intervening distance, topography and vegetation would temper the development's impact as any views would be seen in the context of the wider landscape. Topography and existing vegetation would also reduce the effect of the proposal on landscape character and its visual impact when seen from nearby dwellings, roads and footpaths such as the dwellings mentioned above, Newton Road, Greystoke Road, National Cycle Way 7 and the Public Rights of Way (PRoW) located to the north, east and west of the proposal at distances of between 700m – 900m (LVIA viewpoints 1, 3, 5, 6, 7 and 8). Views of the proposal from the network of nearby footpaths and roads would be limited and short-lived as the users of these routes pass through the landscape.
13. Taking into account the scale and location of the proposed solar farm, the topography, existing vegetation, mitigation measures (such as the proposed boundary planting that could be secured by means of a planning condition attached to any grant of planning permission) and the landscape sensitivity of the area, I agree with the LVIA conclusion that the proposal would have a

moderately harmful effect on landscape character. As for its visual impact, for the same reasons the visibility of the development would be limited to within around 2km as demonstrated in the ZTV, meaning that the effect of the proposal on visual receptors in the locality, would again be moderate.

14. Accordingly, while I have found that the proposal would not be visually prominent and there would be no significant unacceptable effects in line with CS Policy CS20, it would nevertheless cause limited harm to local landscape character and would have a moderately harmful visual impact when seen from nearby vantage points. This would conflict with CS Policies CS1, CS16, CS18 and LP Policy NE1.

Other matters

15. I note from the officer report to the Council's Planning Panel that the conclusion is drawn that subject to conditions, there would be no negative effects arising from the proposal in respect of noise, outlook, setting of heritage assets, highway safety and ecology. From my assessment of the submitted evidence, I have no reason to disagree.
16. I am aware of a similarly sized site solar farm proposal located approximately 2km to the north-west of this site for which an appeal has been made ref. APP/H0928/W/16/3146738. However, given the intervening distance and underlying topography I consider that there would be no resulting cumulative impact.

Benefits

17. The proposal would have a capacity of 5.76 Megawatts Peak (MWp) which would generate around 4.84 Gigawatt hours (GWh) of electricity each year – enough to power approximately 1,470 homes and displace around 2,150 tonnes of CO₂. In addition, I note the appellant's arguments that community benefits would be paid to the Parish Council for 10 years, the proposal would generate business rates along with direct, indirect and induced economic opportunities for local companies during construction and operation, and the development would result in biodiversity enhancements and improved land stewardship during its operation. The proposal would also add revenue to the existing farm business and facilitate the diversification of the agricultural business in line with NPPF paragraph 28.
18. The development plan provides in-principle support for renewable energy and the NPPF at paragraph 98 recognises that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions. The development would contribute to the generation of renewable energy which would assist in meeting national targets that seek to reduce carbon emissions in order to tackle climate change. It would also make a contribution to supporting rural enterprise and economic activity, and provide business rate income to the Council.

Conditions

19. I have considered the conditions put forward in the Councils' Statement, which the appellant has accepted, in the light of the advice in the NPPF and PPG. In addition to the standard time condition and a condition specifying the approved plans (as agreed at the site visit, subject to the corrections highlighted by the appellant in their letter dated 15 April 2016) in the interest of providing

certainty, various other matters need to be submitted for approval. In the interests of securing the operational lifespan of the development it is necessary to inform the local planning authority when electricity is 1st exported to the National Grid.

20. A condition requiring the approval and implementation of a decommissioning scheme is also necessary in the interest of limiting the landscape impact. In addition, in the interests of visual amenity, biodiversity and flood risk, conditions are also necessary in relation to external lighting, planting, and implementing the recommendations of the Ecology Appraisal and Flood Risk Assessment respectively.

Planning balance and conclusion

21. Although community benefits of the kind offered on a voluntary basis are encouraged by the Government, it does not follow that such payments accord with the tests set out in NPPF at paragraph 204. In particular, the community benefits on offer are not a requirement of planning policy and they would not be directly related to the development. I therefore consider that these benefits should not be taken into account in the planning balance. Moreover, the considerations under other matters above do not add further harm rather than being positive benefits of the proposal.
22. In terms of the effects of the proposal, I have found that it would cause moderate harm to local landscape character and would have a moderately harmful visual impact when seen from nearby vantage points. However, the benefits the proposal would bring which accrue from the generation of renewable energy that would contribute to cutting greenhouse gas emissions and counter climate change, objectives which are enshrined in Government policy and given statutory force in the Climate Change Act 2008, are substantial. Added to which, the economic benefits to a rural enterprise are significant.
23. Accordingly, taking this appeal on its planning merits, I consider that the harm to local landscape character and in terms of visual impact is not significant and is outweighed by the benefits of the proposal in accordance with CS20 and NPPF paragraph 98. National policy advises that renewable energy proposals should be located where impacts are, or can be made, acceptable. That is the case here where the development would utilise poorer quality agricultural land avoiding the best and most valuable agricultural land. Hence the proposal can be said to be sustainable when assessed against the NPPF as a whole.
24. In my judgement, the harm arising would be clearly outweighed by the acknowledged environmental and economic benefits. Therefore, I conclude for the reasons given above that the appeal should be allowed.

Richard McCoy

INSPECTOR

Annex

Conditions

- 1) The development permitted shall be begun before the expiration of 3 years from the date of this permission.
- 2) The development hereby granted shall be carried out strictly in accordance with the details and plans hereby approved as listed below:

Plans:

- i. Site Boundary Plan – received 27 May 2015
- ii. Site Design Rev. A4 - Appeal document B.3a
- iii. ES352-A2-025/02G – Substation Details - received 27 May 2015
- iv. 2V Racking System Rev 2 - received 27 May 2015
- v. NT12135 – Planting Plan - dated 9 July 2015
- vi. TGC/PV001 Rev A1 – 2.0m Deer Fence – received 27 May 2015
- vii. TGC/PV003 Rev A1 – Inverter Cabin – received 27 May 2015
- viii. TGC/PV004 Rev A2 - CCTV System - received 27 May 2015
- ix. TGC/PV009 Rev A1 – Comms Building - received 27 May 2015
- x. TGC/PV010 Rev A3 – Switchgear Housing – received 27 May 2015

Reports:

- i. Design and Access Statement - received 27 May 2015
 - ii. Opportunities Register - received 27 May 2015
 - iii. Flood Risk Assessment - received 16 June 2015
 - iv. Ecological Appraisal - received 19 June 2015
 - v. Provisional Traffic Management Plan - received 22 June 2015
 - vi. Community Consultation Report received 22 June 2015
 - vii. Archaeological Desk Based Assessment received 29 June 2015
 - viii. Agricultural Land Classification Report – dated 9 July 2015
 - ix. Landscape and Visual Impact Assessment – dated July 2015
- 3) The permission hereby granted shall expire 25 years from the date when electrical power is first exported ('first export date') from the solar farm to the electricity grid network, excluding electricity exported during initial testing and commissioning. Written confirmation of the first export date shall be provided to the local planning authority no later than one calendar month after the event.
 - 4) Within 6 months of the cessation of energy generation from the site, or a period of 25 years and 6 months following from the date when electrical power is first exported, whichever is the sooner, all infrastructure associated with the solar farm will be removed from the site and the site restored to its original condition in accordance with a decommissioning scheme which shall be first agreed in writing with the local planning authority.
 - 5) There shall be no fixed external lighting installed on the site without the prior approval by the Local Planning Authority.
 - 6) The Planting Plan 'Figure 20' of the Landscape and Visual Impact Assessment dated July 2015 shall be implemented in full no later than the end of the first available planting season following the commencement of the development. The planting shall be maintained in accordance with the Planting Plan for the lifetime of the permission including the replacement of any tree or shrub

which is removed, becomes seriously damaged, seriously diseased or dies by the same species.

- 7) The Recommendations included within chapter 4 of the All Ecology Ecological Appraisal dated June 2015 shall be implemented in full within the first calendar year following the commencement of the development.
- 8) The Recommendations included within chapter 9 of the Flood Risk Assessment Incorporating Sustainable Drainage Strategy dated 04 June 2015 shall be implemented in full within the first calendar year following the commencement of the development.